

AMENDED IN SENATE APRIL 26, 2005

Senate Constitutional Amendment

No. 13

Introduced by Senators Ortiz and Runner

(Coauthors: Senators Cox and Dutton)

*(Coauthors: Assembly Members Benoit, Garcia, Jones, Laird, Leno,
and Yee)*

March 17, 2005

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of, and by adding Sections 8 and 9 to, Article XXXV thereof, relating to biomedical research.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as amended, Ortiz. Biomedical research.

The California Stem Cell Research and Cures Act, an initiative measure, establishes the California Institute for Regenerative Medicine, the purpose of which is, among other things, to make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and medical procedures that will result in the cure for, or substantial mitigation of, diseases and injuries. Existing law authorizes the issuance of bonds, not to exceed \$3,000,000,000, for the purpose of funding this research.

Existing law establishes the Independent Citizen's Oversight Committee (ICOC), composed of appointed members, that is required to perform various functions and duties with regard to the operation of the institute. Existing law also establishes various working groups whose purposes are to make recommendations to the ICOC regarding the making of these grants and loans.

This measure would require that the chair and vice chair and any appointed member of the Independent Citizen's Oversight Committee (ICOC), the president of the institute, and any member of any working or advisory group appointed to assist the institute or its governing body be subject to conflict-of-interest requirements and reporting of financial interest requirements that are commensurate with those required of public officials and of persons *employed by or* appointed to serve the National Institute of Health, and that records and meetings be subject to state open meeting and public record laws that are applicable to state agencies, *with certain exceptions*.

This measure would require every contract, award, grant, loan, or other arrangement entered into by the institute, the ICOC, or any other entity of state government that provides state funding or other resources for biomedical research, as defined, to ensure that these financial arrangements do not result in a gift of public funds, that loan, lease, or rental arrangement terms are consistent with *or below* market rates for rent or interest, and that any clinical treatments, products, or services resulting from the biomedical research are made available, at ~~the costs-affordable~~ *of producing them*, to low-income residents.

The measure would require these financial arrangements to provide that the state recoup the full amount of its legal and administrative costs incurred with respect to patenting and licensing activities related to biomedical research, would require that the state be provided with its share of royalties or licensing revenues, derived from the development of clinical treatments, products, or services resulting from the research, that is sufficient to repay its expenses incurred in developing these treatments, products, or services, and would also require that these royalties or licensing revenues be transmitted to the state in an amount sufficient to repay the costs of issuing bonds incurred by the state in funding the biomedical research.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2005-06 Regular
- 3 Session commencing on the sixth day of December 2004,
- 4 two-thirds of the membership of each house concurring, hereby
- 5 proposes to the people of the State of California, that the
- 6 Constitution of the State be amended as follows:

1 First—That Section 6 of Article XXXV thereof is amended to
2 read:

3 SEC. 6. Except as otherwise provided in this article,
4 notwithstanding any other provision of this Constitution or any
5 law, the institute, which is established in state government, may
6 utilize state issued tax-exempt and taxable bonds to fund its
7 operations, medical and scientific research, including therapy
8 development through clinical trials, and facilities.

9 Second—That Section 8 is added to Article XXXV thereof, to
10 read:

11 SEC. 8. (a) The chair and vice chair and any appointed
12 member of the Independent Citizen's Oversight Committee
13 (ICOC), the president of the institute, and any member of any
14 working or advisory group appointed to assist the institute or its
15 governing body, is subject to conflict-of-interest requirements
16 and reporting of financial interest requirements that are
17 commensurate with those required of public officials and of
18 persons *employed by or* appointed to serve the National Institute
19 of Health.

20 (b) ~~Meetings~~—(1) *Except as provided in paragraph (2),*
21 *meetings* and records of the institute, the ICOC, or any body
22 established to govern the institute, and any working or advisory
23 group, are subject to California open meeting and public record
24 laws that are applicable to state agencies.

25 (2) *Notwithstanding paragraph (1), the ICOC, any body*
26 *established to govern the institute, and any working group or*
27 *advisory group, may conduct a closed session for the purpose of*
28 *considering or discussing matters involving intellectual property*
29 *or proprietary information and matters involving prepublication*
30 *confidential scientific information associated with individual*
31 *research proposals submitted for funding.*

32 Third—That Section 9 is added to Article XXXV thereof, to
33 read:

34 SEC. 9. (a) Every contract, award, grant, loan, or other
35 arrangement entered into by the institute, the Independent
36 Citizen's Oversight Committee, or any other entity of state
37 government that provides state funding or other resources for
38 biomedical research, shall ensure all of the following:

1 (1) Notwithstanding Section 6, the contract, award, grant,
2 loan, or other arrangement does not result in a gift of public
3 funds within the meaning of Section 6 of Article XVI.

4 (2) All clinical treatments, products, or services resulting from
5 the biomedical research are made available at ~~costs affordable~~ *the*
6 *costs of producing them* to low-income residents, including
7 health care and preventive health programs, funded in whole or
8 in part by the State and counties, that serve low-income residents.

9 (3) The terms of any loan, lease, or rental arrangement are
10 consistent with, *or below*, market rates for rent or interest.

11 (4) The State recoups the full amount of its legal and
12 administrative costs incurred with respect to patenting and
13 licensing activities related to the biomedical research.

14 (5) The State is provided a share of the royalties or revenues,
15 derived from the development of clinical treatments, products, or
16 services resulting from the research, that is sufficient to repay its
17 expenses incurred in developing the clinical treatments, products,
18 or services.

19 (6) In addition to royalties or licensing revenues described in
20 paragraph (5), royalties or licensing revenues are transmitted to
21 the State in an amount sufficient to repay any costs of issuing
22 bonds incurred by the State in funding the biomedical research.

23 (b) Nothing in this section shall be construed to preclude the
24 State from receiving any other benefits to which it would
25 otherwise be entitled under Chapter 3 (commencing with Section
26 125290.10) of Part 5 of Division 106 of the Health and Safety
27 Code, or its successor.

28 (c) For purposes of this section, “biomedical research” means
29 research that has as its purpose increasing the understanding of
30 human diseases and conditions and improving treatments for
31 these diseases and conditions.